

Attorney Docket No.: 9314-53

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Thomas L. Deitrich

Group Art Unit No.: 2681

Serial No.: 10/722,198

Examiner: Erika A. Gary

Filed: November 26, 2003

Confirmation No.: 6742

For: METHODS, NETWORKS, AND COMPUTER PROGRAM PRODUCTS FOR  
SELECTIVELY ROUTING COMMUNICATIONS BASED ON ROUTING RULES

**DECLARATION OF THOMAS DEITRICH PURSUANT TO 37 C.F.R. 1.131**

Sir:

I, Thomas Deitrich, hereby declare and say that:

1. I am the inventor of the subject matter of the above-referenced patent application.
2. Prior to October 29, 2003, I conceived in the United States the subject matter of all of the claims (Claims 1-29) of the above-referenced patent application.
3. In support of the above statement of Section 2, I hereby submit as **Appendix A** a letter from patent attorney David Purks of the Myers, Bigel, Sibley & Sajovec, L.L.P. law firm to me dated October 2, 2003 sending a draft of the above-referenced patent application, and a copy of the draft patent application that was sent with the letter on October 2, 2003. The specification, claims, and drawings of the draft patent application in **Appendix A** establishes that the subject matter of the above-referenced claims was conceived before October 29, 2003.
4. Due diligence was exercised from prior to October 29, 2003, to the filing of the present patent application.
5. In support of the above statement of Section 4, I refer to the letter and draft patent application shown in **Appendix A** that were sent for my review on October 2, 2003 and the prompt filing of the patent application that was made on November 26, 2003.
6. In summary, my statements herein and the documents I have concurrently submitted show conception of the invention prior to October 29, 2003, coupled with due

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diligence from prior to October 29, 2003, to the filing of the above-referenced patent application on November 26, 2003.

7. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true. I further declare that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



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Thomas L. Deitrich

15 Nov 05

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Date

# **APPENDIX A**

# MYERS BIGEL SIBLEY & SAJOVEC, P.A.

## PATENT LAWYERS

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James R. Cannon	Karen A. Magri, Ph.D.	Julie H. Richardson	

October 2, 2003

Via Email

Mr. Thomas L. Deitrich

Re: U.S. Patent Application Entitled: *Methods, Networks, and Computer Program Products for Routing Communications Based on Availability of Wireless Terminals and Alternate Routing Identifiers*  
SEMC Dkt No.: U03 0042; Our Ref. No.: 9314-53

Dear Mr. Deitrich:

Enclosed please find a draft of the patent application and the drawings directed to the above-identified invention. Enclosed are the PCT General Power of Attorney, Assignment and Declaration documents for execution so that they will be available to you when the application is placed in final form.

It is essential that the patent application, as filed, be technically accurate and complete, and that it set forth the best mode of carrying out the invention. If the application is fully satisfactory, then you should read and then execute the Declaration and Power of Attorney attached to the application. Please note that the application must be complete in all respects, *i.e.*, all changes must be made before the Declaration and Power of Attorney is executed. In the event any changes are made, each such change to the patent application must be initialed and dated.

The Assignment should be executed in the presence of a Notary Public who will then properly notarize the document.

Out of an abundance of caution, we are requesting that you review that the proper inventive entity has been identified for the claimed invention(s). There is no need to reply on this matter if the proper inventive entity is named. As you may be aware, inventorship is determined by the subject matter of the claimed invention. Generally stated, to be an inventor one must have made an actual contribution to the conception of the operative invention that is claimed. There may be joint inventorship even though the joint inventors (a) did not work physically together or at the same time, (b) did not make an equal contribution, or (c) did not make a contribution to the subject matter of every claim of the patent. A worker who merely carries out the instructions of another or only provides implementing devices to carry out



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another's ideas where the effort to do so is the exercise of one of ordinary skill is not typically an inventor. Further, persons listed as contributing to an article describing or related to the invention are not necessarily inventors. Please feel free to call with any questions that you may have on this issue.

We would also like to point out that an inventor is required to make a Declaration when the inventor's application is filed in the U.S. Patent and Trademark Office (USPTO), acknowledging a duty to disclose information of which the inventor is aware and which may be considered to be material to the examination of the application. "Material" in this respect is defined as information that a reasonable examiner would likely consider important in deciding whether to issue a patent. "Material" information as defined above may possibly include devices, products, publications, etc. that are similar to the invention and were publicly known before the invention, and it may also include any public disclosure, commercial use, or offer of sale of the invention more than one year prior to the filing date of the application. The USPTO encourages applicants to carefully examine 1) prior art cited in search reports of a foreign patent office in a counterpart application and 2) the closest information over which it is believed any pending claim patentably defines to ensure that any "material" information contained therein is disclosed to the USPTO.

If you are aware of any information that you believe might be considered "material," it is important that it be brought to our attention as soon as possible. Submission of material information more than three months after filing or after receipt of the first Office Action (whichever is later) requires payment of a fee. In addition, late submission of material information may protract prosecution of this application and result in a forfeiture of potential patent term extension. Accordingly, we request that you provide us with any material references of which you are aware as soon as conveniently possible. We can then make a determination whether the information should be brought to the attention of the Patent and Trademark Office under the applicable rules. Please also be aware that the duty to disclose "material" information continues throughout pendency of the application, until the application issues as a patent.

You should also be aware that certain activities either in the United States or foreign countries prior to filing of the application in the United States may have a bearing on the ability to file corresponding applications in foreign countries under the applicable international treaty. These activities could include public disclosure of the invention in either written or oral form, such as published articles, patents, product announcements, and proposals, as well as through commercial exploitation of the invention, including public demonstrations, offers to sell, and sale of products incorporating the invention. If you would like to preserve your right to file corresponding foreign applications on this invention, we recommend that all such activities be avoided until the U.S. application is on file.

Mr. Thomas L. Deitrich  
October 2, 2003  
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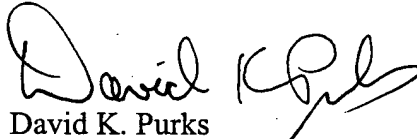
Pursuant to recent changes in the law, a U.S. application will be published approximately eighteen months after the earliest priority date to which the application is entitled, unless a specific non-publication request is made. Publication may in some circumstances provide additional infringement damages. There are additional fees associated with publication and third parties may submit references against the published application to the Patent Office. A request to not publish the application must be filed at the time of filing the application and must include a certification that the invention has not and will not be the subject of an application filed in a foreign country (e.g., under an international agreement such as the PCT) that requires eighteen-month publication. If you later wish to file an application in a foreign country, we must promptly rescind the non-publication request to avoid abandonment of the application. A request to withhold publication will incur additional fees and expenses. If you would like for us to file a request to prevent publication of the application, please inform us immediately in writing. We will not request non-publication of the application unless you instruct us to do so.

The name of the assignee may be printed on the face of the published application. Absent instructions to the contrary, we will provide the name of the assignee for publication purposes. If you do not want the assignee's name to be printed on the published application, then please advise us in advance of the filing of the application.

Please return all original, executed documents to us for filing with the United States Patent Office.

Best regards.

Very truly yours,

  
David K. Purks

DKP:abw  
cc: Debra Stephens  
Attachments